



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date Introduced:	02/10/05	Bill No:	SB 193
Tax:	Sales and Use	Author:	Maldonado
Related Bills:			

BILL SUMMARY

This bill would expand the existing sales and use tax exemption for the sale or use of space flight property to include ground support facilities for space flight operations.

ANALYSIS

Current Law

Under existing law, a sales tax is imposed on retailers for the privilege of selling tangible personal property in this state. The use tax is imposed upon the storage, use, or other consumption of tangible personal property purchased in this state. Either the sales tax or the use tax applies with respect to all retail sales and purchases of tangible personal property, unless the sale and purchase is specifically exempted.

Under existing law, Revenue and Taxation Code Section 6380 provides a sales and use tax exemption for the sale or use of qualified property used in space flight. "Space flight" is defined under Section 6380 to mean any flight designed for suborbital, orbital, or interplanetary travel by a space vehicle, satellite, space facility, or space station of any kind. "Qualified property" consists of:

- Tangible personal property that has space flight capability, including, but not limited to, an orbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind, and any component thereof.
- Tangible personal property to be placed or used aboard any facility, system vehicle, satellite, or station described above, regardless of whether that property is to be ultimately returned to this state for subsequent use, storage, or other consumption.
- Fuel of a quality that is not adaptable for use in ordinary motor vehicles, but is produced, sold, and used exclusively for space flight.

Proposed Law

This bill would amend Section 6380 of the Sales and Use Tax Law to add to the definition of qualified property any tangible personal property to be used for the purpose of assembly, launch, or transport of space flight property and tangible personal property used in spaceport operations. Tangible personal property used for the purpose of assembly, launch, or transport of space flight property would be limited to property transported to launchsites within California, or directly from California to a site in the Pacific Ocean that is outside of California's territorial waters.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

This bill would define “spaceport operations” to mean an installation and related facilities, and equipment used for the launching, landing, recovering, and monitoring of vehicles capable of entering or entering and returning from space flight.

This bill would provide a sales and use tax exemption for the sale and use of materials consumed or installed by a contractor in the construction of a facility designed to launch, manufacture, fabricate, assemble, or process qualified property.

The bill would become effective immediately, but would become operative on the first day of the calendar quarter commencing more than 90 days after the date the bill is enacted.

Background

Section 6380 was added to the Sales and Use Tax Law in the 1993 Legislative Session by SB 671 (Alquist, et al., Ch. 881). The exemption provided by Section 6380 was for the sale and use of space flight property originating at Vandenberg Air Force Base and contained a sunset provision of January 1, 2004. At that time, the bill was addressing Motorola Company’s IRIDIUM™ project; a development of a global wireless communications network that would combine the worldwide reach of 66 low-earth-orbit satellites with land-based wireless systems to enable subscribers to communicate using handheld telephones and pagers virtually anywhere in the world. Vandenberg Air Force Base in Santa Barbara County was the only base equipped in the United States for launching these types of satellites, because of the required orbit. Since this exemption was created, deployment of its 72-satellite constellation, including in-orbit spares, has been completed (40 of those through a total of 8 launches from Vandenberg). Motorola completed the IRIDIUM™ project and introduced it to the world on November 1, 1998.

Section 6380 was amended during the 1998 Legislative Session by AB 2798 (Machado, et al., Ch. 323). This bill removed the requirement that the space flight property must originate from Vandenberg Air Force Base and also removed the January 1, 2004 sunset provision.

Several bills containing similar provisions have been introduced in prior legislative sessions.

SB 1582 (O’Connell), introduced during the 2000 Legislative Session, contained the same provisions as this bill. SB 1582 failed to pass out of the Senate Revenue and Taxation Committee.

SB 76 (O’Connell), introduced during the 2001 Legislative Session, contained similar provisions as this bill. SB 76 would have also provided that property used for assembly, launch, or transport of space property is exempt, regardless of whether the spacecraft were launched from California. SB 76 failed passage in the Senate Revenue and Taxation Committee.

SB 640 (Knight) and AB 1575 (Campbell), introduced during the 2001 Legislative Session, also contained similar provisions as this bill. These bills would have also provided that the sales and tax exemption cannot be used in conjunction with the Manufacturer’s Income Credit. SB 640 failed passage in the Senate Revenue and Taxation Committee. AB 1575 was never heard in committee.

AB 1869 (Maldonado), introduced during the 2004 Legislative Session, contained the same provisions as this bill, with the exception of adding a sunset date. A sunset date of January 1, 2012 was added, but only the bill’s expanded exemption provisions would

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have sunset. AB 1869 failed to pass out of the Assembly Revenue and Taxation Committee.

COMMENTS

1. Sponsor and Purpose. This bill is co-sponsored by the Lockheed Martin Space Systems Company and the California Space Authority. This measure is intended to demonstrate California's intent to ensure that the commercial space industry in California grows and is not lost to competitive states or countries. Currently, FAA launch facilities exist not only in California, but also in Virginia, Florida, New Mexico and Alaska. In addition to launch sites available in the United States, launch sites are available in other countries as well. Many of the launch sites available outside California offer tax incentives for commercial launches. (See Comment 3)

2. Property covered by proposed exemption. The current exemption provided by Section 6380 covers only the property that has space flight capability, property to be placed or used aboard property that has space flight capability, or fuel used exclusively for space flight.

This bill would expand the exemption to cover property to be used for assembly, launch, or transport of space flight property, provided the property is transported to launchsites within California or the Pacific Ocean. This could include property such as tools, machinery and equipment, containers, and vehicles used to transport property.

Also included in the proposed exemption would be property used in spaceport operations. Spaceport operations is defined to mean an installation and related facilities, and equipment used for the launching, landing, recovering and monitoring of vehicles capable of entering or entering and returning from space flight. Examples of property that could be included in spaceport operations would be launch pads, landing areas, ships, cranes, computer tracking equipment and related accessories.

The proposed exemption would also provide an exemption from the gross receipts for the sale of, and the storage, use, or other consumption in this state of, materials consumed or installed by a contractor in the construction of a facility designed to launch, manufacture, fabricate, assemble, test, or process qualified property.

Contracts to furnish and install items such as runways, launch pads, and buildings are construction contracts. Generally, the contractor is regarded as the consumer of materials and the retailer of fixtures under a construction contract. A contractor would normally pay tax on the purchase price of materials consumed on the job and report tax on the retail price of fixtures sold under the construction contract. This bill would allow contractors to avoid paying tax on the purchase of materials consumed and reporting tax on fixtures sold when a construction contract is performed for the purpose of building qualified property.

3. Other states. Proponents of this bill assert that other states are competing against California for commercial launches. Alaska's Kodiak Launch Complex is the newest commercial launch complex in the Untied States. This location is ideal for launching Expendable Launch Vehicles with payloads requiring low-earth polar orbits. The State of Alaska does not have a sales and use tax.

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Cape Canaveral Air Force Station at Patrick Air Force Base in Florida is part of the U.S. Space Command 45th Space Wing. It provides facilities for military, NASA, and commercial organizations. Spaceport Florida Facility is a commercial launch site at Cape Canaveral Air Station operated by the Spaceport Florida Authority, a state agency. The State of Florida has several sales tax exemptions for the space industry. There is an exemption of sales tax on property used or occupied predominately for space flight business purposes, including manufacturing, processing, ground control and ground support and other activities, as defined. There is an exemption for sales tax on machinery and equipment used to increase the productive output of a spaceport activity, as defined, and for new and expanding businesses within the space industry, as defined.

Southwest Regional Spaceport is a commercial launch facility which NASA uses as one of its three space shuttle landing sites in the United States. New Mexico has a “gross receipts” tax and a “compensating” tax. Qualified persons can claim a deduction from the gross receipts tax for receipts from launching, operating or recovering space vehicles or payloads in New Mexico. There is also a deduction for receipts from operating a spaceport. Under the compensating tax program, a deduction can be taken for the value of space-related test articles used exclusively for research or testing.

Virginia Space Flight Center is a commercial launch facility on Wallops Island located on the eastern shore of Virginia. This facility has two launch pads capable of launching Expendable Launch Vehicles. Virginia provides an exemption from the retail sales and use tax for the sale, lease, use, storage, consumption, or distribution of an orbital or suborbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind possessing space flight capability, including components. There is also a retail sales tax exemption for fuels used exclusively for space flight, and for machinery and equipment that is purchased, sold, leased, or used exclusively for spaceport activities. These exemptions have a sunset date of July 1, 2011.

COST ESTIMATE

Some costs would be incurred in computer programming, return revisions, return processing, and revising publications. A detailed estimate of these costs is pending.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Under current law, qualified property used in space flight is exempt from the sales and use tax. Qualified property is defined as tangible personal property that has space flight capability, including, but not limited to, an orbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind, and any component thereof. Qualified property is also defined as tangible personal property to be placed aboard any facility, system, vehicle, satellite, or station, regardless of whether that property is to be returned to this state for subsequent use, storage or other consumption. Also exempted is fuel of a quality that is not adaptable for use in ordinary motor vehicles, but is produced, sold, and used exclusively for space flight.

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Under this bill, tangible personal property used for the purpose of assembly, launch, or transport of an orbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind would be exempt from the sales and use tax. Additionally, materials consumed or installed by a contractor in the construction of a facility designed to launch, manufacture, fabricate, assemble, test, or process qualified property are also exempt from the sales and use tax.

According to industry representatives, expenditures for launch related activities in California were estimated to be \$115 million in 2000, \$117 million in 2001, and \$46 million in 2002. Actual expenditure statistics are not available. However, according to information acquired from industry representatives relative to AB 1869 (2003-04 session), there has been new construction on launch facilities at Vandenberg Airforce Base, which would qualify under this bill. For example, Space Launch Complex 6 was refurbished at some point during the time period covered from 2002 through 2003. It is estimated that total expenditures on that project ranged from \$200 million to \$300 million. Additionally, in 2004, reconstruction began on Space Launch Complex 3-East at an estimated cost of between \$200 million to \$300 million. We have not been provided with any breakdown of those figures. To date we have not been able to verify that the historical spending is different from current spending. If we assume that the total expenditures would qualify under this bill, the revenue loss is estimated to be \$15.8 million to \$23.8 million.

Revenue Summary

The revenue impact from exempting \$200 million to \$300 million from the sales and use tax would be as follows:

Revenue Effect

State Loss (5.25%)	\$ 10.5 million to \$ 15.8 million
Local Loss (2.00%)	\$ 4.0 million to \$ 6.0 million
Transit Loss (0.67%)	\$ 1.3 million to \$ 2.0 million
Total	\$ 15.8 million to \$ 23.8 million

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